

IN THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

DAVID LOPEZ MORENO, :
: :
Petitioner : CIVIL NO. 3:CV-15-451
: :
v. : (Judge Conaboy) **FILED**
: :
UNITED STATES OF AMERICA, : **SCRANTON**
: :
Respondent : APR 01 2015

MEMORANDUM
Background

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This pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 was filed by David Lopez Moreno, an inmate presently confined at the Moshannon Valley Correctional Institution, Philipsburg, Pennsylvania (Moshannon Valley). Petitioner has also filed an in forma pauperis application. Moreno's action will be transferred to the United States District Court for the Western District of Pennsylvania.

Named as sole Respondent is the United States of America.¹ Moreno states that he is presently serving a federal criminal sentence and becomes eligible for home detention as of April 9, 2015. See Doc. 1, p. 1. Petitioner adds that his projected release date is October 9, 2015. See id.

¹ The only properly named Respondent in a federal habeas corpus action is Petitioner's custodial official, in this case the Moshannon Valley Warden. See 28 U.S.C. § 2242.

Moreno's pending action does not challenge the legality of his federal criminal conviction or resulting sentence. Rather, Moreno claims that he should be immediately deported back to his native country without having to complete the remainder of his sentence.²

Discussion

Relief pursuant to § 2241 may only be sought in the district court having jurisdiction over a petitioner's custodian. See Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004) (jurisdiction for habeas corpus petitions challenging present physical confinement lies in only one district; the district of confinement); Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 494-95 (1973). Although having a mailing address as Phillipsburg, Pennsylvania, which is located in Centre County and within the confines of the Middle District of Pennsylvania, Moshannon Valley Correctional Center is actually located in Decatur Township, Pennsylvania, on the eastern edge of Clearfield County, which is within the jurisdiction of the United States District Court for the Western District of Pennsylvania. See Tsoukalas v. United States, 215 Fed. Appx. 152 (3d Cir. 2007) (jurisdiction over a § 2241 petition filed by Moshannon Valley inmate rests with the Western District of Pennsylvania).

² Habeas corpus review under § 2241 "allows a federal prisoner to challenge the 'execution' of his sentence." Woodall v. Federal Bureau of Prisons, 432 F.3d 235, 241 (3d Cir. 2005). Review is available "where the deprivation of rights is such that it necessarily impacts the fact or length of detention." Leamer v. Fauver, 288 F.3d 532, 540 (3d Cir. 2002).

As recognized in Tsoukalas, this Court lacks jurisdiction over the Warden of Moshannon Valley. A court may transfer any civil action for the convenience of the parties or witnesses, or in the interest of justice, to any district where the action might have been brought. 28 U.S.C. § 1404(a). Consequently, this matter will be transferred to the United States District Court for the Western District of Pennsylvania pursuant to § 1404(a). An appropriate Order will enter.

Richard P. Conaboy
RICHARD P. CONABOY
United States District Judge

DATED: APRIL 14, 2015